IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

WRIT PETITION (LDG) NO.2040 OF 2007

Shaina Mulani & Ors. ...Petitioners.
Vs.
The State of Maharashtra & Ors. ...Respondents.

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Mr. U.P. Warunjikar for the Petitioners.
Mr. N.P. Pandit, AGP for Respondent Nos.1 to 3.
Mr. Devendra Sharma for Respondent No.5.

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**CORAM : SWATANTER KUMAR, C.J. &**
**DR.D.Y.CHANDRACHUD, J.**

**October 31, 2007**.

**P.C. :**

The Petitioners who are parents of disabled children, filed the present Writ Petition praying that there is financial mismanagement and even educational irregularities being committed in the school for handicaped, Sanskardham Vidhyalaya, Respondent Nos.4 and 5, as such an enquiry be conducted and also made a prayer for appointment of an administrator of this Institute. It is fairly not necessary for us to notice in any great details, the facts giving rise to the present petition. Suffice to notice that the allegations are about financial irregularities, demoting children to lower classes with mala

fide intention and with a sense of vengeance. It is also stated that there was a serious misappropriation of funds and even the parents of the disabled were not permitted to enter the school. Various documents in this regard have been produced on record.

2. Counsel appearing for Respondent Nos.4 and 5 has prayed for time to place certain documents on record which show that the averments made against the stand of the management are factually incorrect. The school specifically denies the allegation with regard to the demotion of children from higher standards to lower standards. According to them, the children had not qualified as to the higher secondary classes. Be that as it may, even when the Writ Petition came up for hearing before us, we passed the following order on 10th October 2007 :

> "Let a legible copy of the Petition be furnished to Counsel appearing for the Respondents by tomorrow. Reply affidavit to be filed within two weeks from today. Rejoinder, if any, to be filed within one week thereafter.
>
> Stand over to 31st October 2007.
>
> In the meanwhile, we direct Respondent No.2 to submit the enquiry report in furtherance to the proceedings he has taken. He is further directed to conduct personal

> inspection of the school on any of the working day and observations made shall be referred to in the affidavit which may be filed by Respondent No.2."

3. After passing the above order, it has been stated that the enquiry being conducted by the Appropriate Authority has still not been concluded and is pending finalization. Even the same stand has been taken in the affidavit in reply filed on behalf of the Government by its affidavit dated 30th October 2007. On the basis of preliminary enquiry conducted and various allegations made by the parties against the management of the school, the Commissioner, Respondent No.3, vide his letter dated 8th October 2007 had recommended that an administrator be appointed in relation to the state of affairs of the school. It is stated at the Bar today that in furtherance to these proceedings, the State of Maharashtra has passed an order dated 30th October 2007, appointing an administrator of Respondent No.4. This order is signed by the Deputy Secretary, State of Maharashtra, on behalf of the Government. A copy of the order has been given to the Counsel for the Petitioner as well as Respondent Nos.4 and 5. They are at liberty to take such steps as advised to them in accordance with law.

4. Vide order dated 20th October 2007, the State Government has also appointed a special committee, comprising of three members, namely, the Divisional Social Welfare Officer, Mumbai Division, Mumbai, the Special Social Welfare Officer, Mumbai and the Accounts Officer in the office of the Divisional Social Welfare Officer, Mumbai to carry out the detailed enquiry on the basis of the complaint. This Committee has still to submit its report.

5. The main relief prayed by the Petitioners in the present Writ Petition does not survive in view of the order passed by the appropriate Government, dated 30th October 2007. As far as looking into the other allegations, it is apparent that the enquiry is under process and is likely to be completed shortly. We direct the Committee to complete the enquiry within four weeks from today. The enquiry report shall be submitted to the Administrator, who shall examine the same and thereafter forward to the Commissioner and if necessary, even to the higher authorities, and appropriate action would be taken on the basis of the enquiry report. We also direct the

Administrator to look into the grievance of the Petitioners in regard to the demotion of students to lower classes in an arbitrary manner. This matter can hardly be gone into by this Court in the exercise of its writ jurisdiction and these directions to the Administrator would suffice the ends of justice. Needless to notice that under Sections 59 to 63 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, the Commissioner has wide powers to take necessary steps for the redressal of the grievances. We do hope that the Commissioner would look into the matter expeditiously.

6. The Writ Petition is disposed of with the above directions.

CHIEF JUSTICE

Dr.D.Y. CHANDRACHUD, J.